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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,336	11/26/2003	Markus Krumbek	MA0776US (#90081)	9482

28672 7590 09/16/2005  
D. PETER HOCHBERG CO. L.P.A.  
1940 EAST 6TH STREET  
CLEVELAND, OH 44114

EXAMINER

SWENSON, BRIAN L

ART UNIT PAPER NUMBER

3618

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/723,336

Applicant(s)

KRUMBECK ET AL.

Examiner

Brian Swenson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 6-8 is/are rejected.
- 7) ☒ Claim(s) 3-5 and 9-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/26/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 8 is objected to because of the following informalities: The preliminary amendment filed on 26 November 2003; cancelled the dependency of claim 8, the claim has been examined to have depended from claim 1. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,182,524 issued to Boyl.

Boyl teaches in Figures 1-19 and respective portions of the specification of: a disengageable ski binding having a standing and/or carrying plate (1) provided as a standing surface for a ski boot (C) and is arranged on a base part (3), mounted securely firmly on the ski, said base part rotatable about a vertical axis of the base part counter to an adjustable resistance of a first latching device (7a), and said base part having disengageable front and rear boot and/or sole holders (4a,4b) which are arranged on the standing and/or carrying plate (1; Figure 2) said base part having a use position interactable in a form-fitting manner with mating surfaces or elements (6a,6b) on the boot and/or boot sole, firmly fixable on the standing and/or carrying plate, the rear sole holders (6b) being adjustable into a release position counter to the adjustable resistance

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of a second latching arrangement (see Figures 3 and 4) separate from the first latching device (11a), or the front boot and/or sole holders (4a) lockable within a predetermined angle-of-rotation region of the standing and/or carrying plate (1), at least essentially without affecting the resistance of the first latching device (7a), and are unlocked outside the region of rotation.

In regards to claim 2, Boyl shows in Figure 1, the rear boot holders do not provide room for the boot to disengage in a horizontal direction so they are taken to be disengageable only in the vertical direction.

In regards to claims 6 and 8, see Figures 8-9; the stop on the boot is taken to be element 6b of which the boot can pivot about.

In regards to claim 7, the manually actuating lever is taken to be element 121; Figure 10.

### ***Allowable Subject Matter***

Claims 3-5, 9-10 and 11-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The primary reason for the indication of allowable subject matter in this case is the inclusion of:

**for claims 3-5:** a carrying plate for supporting a base part that supports a standing skier, where the base part includes a moment support which convert torques applied to a transverse axis relative to the standing occupant to into torques applied in a vertical direction;

**for claims 9-10:** a front boot or holder that is allowed to pivot in a generally vertical direction about a horizontal and longitudinal axes (11), as shown by applicant in Figure 6 of the instant drawings; and

**for claims 11-12:** a base plate bearing the carrying plate and connected at its front with a hinge that allows for relative pivoting about a transverse axis,

in combination with the other elements recited not found in the prior art of record.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,428,032 issued to Humbel teaches of safety binding for a snowboard.

U.S. Patent No. 3,918,732 issued to Wulf, U.S. Patent No. 4,191,395 issued to Salomon, U.S. Patent No. 6,773,024 issued to Walkhoff teaches of a binding with a first plate that can rotate about a vertical plane, the plate is used for connecting to a footwear item.

U.S. Patent No. 6,338,497 issued to Chevalier et al. teach of a releasable binding for a ski.

U.S. Patent No. 5,762,357 issued Ratzek, U.S. Patent No. 4,893,831 issued to Pascal et al. and U.S. Patent No. 4,026,576 issued to Frechin all teach of other pertinent binding devices.

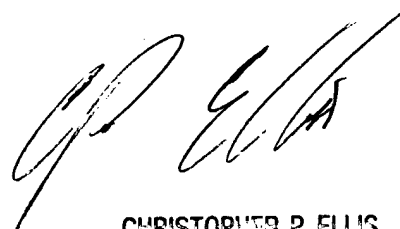
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Swenson whose telephone number is (571) 272-6699. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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bls

Brian Swenson  
Examiner  
Art Unit 3618



CHRISTOPHER P. ELLIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600